

ASSEMBLY BILL

No. 1160

Introduced by Assembly Member Lieber

February 22, 2005

An act to amend Section 192 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 1160, as introduced, Lieber. Crime: manslaughter.

Existing law defines manslaughter as the unlawful killing of a human being without malice and it is accomplished either voluntarily, involuntarily, or with a vehicle, as defined. Voluntary manslaughter is described as killing upon a sudden quarrel or heat of passion.

This bill would prohibit a finding of "sudden quarrel" or "heat of passion" if the defendant's actions resulted from the discovery, knowledge, or potential disclosure of a particular characteristic or association, as specified, which belongs to either the victim or defendant.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 192 of the Penal Code is amended to
2 read:
3 192. Manslaughter is the unlawful killing of a human being
4 without malice. It is of three kinds:
5 (a) Voluntary—upon a sudden quarrel or heat of passion.
6 (1) *A defendant is acting upon "sudden quarrel" or "heat of*
7 *passion" only when sufficiently provoked by actions of the*
8 *victim, or actions that the defendant can reasonably attribute to*

1 *the victim, that would cause a similar reaction from an ordinarily*
2 *reasonable person.*

3 *(2) Sufficient provocation to support “sudden quarrel” or*
4 *“heat of passion” does not exist if the defendant’s actions are*
5 *related to discovery of, knowledge about, or the potential*
6 *disclosure of one or more of the following characteristics, or*
7 *perceived characteristics: disability, gender, nationality, race or*
8 *ethnicity, religion, or sexual orientation, regardless of whether*
9 *the characteristic belongs to the victim or the defendant. This*
10 *limitation applies even if the defendant dated, romantically*
11 *pursued, or participated in sexual relations with the victim.*

12 *(3) Sufficient provocation to support “sudden quarrel” or*
13 *“heat of passion” does not exist if the defendant’s actions are*
14 *related to discovery of, knowledge about, or the potential*
15 *disclosure of the victim’s association with a person or group with*
16 *one or more of the characteristics, or perceived characteristics,*
17 *in paragraph (2).*

18 *(4) For the purposes of this section, “gender” means sex, and*
19 *includes a person’s gender identity and gender-related*
20 *appearance and behavior whether or not stereotypically*
21 *associated with the person’s assigned sex at birth.*

22 (b) Involuntary—in the commission of an unlawful act, not
23 amounting to felony; or in the commission of a lawful act which
24 might produce death, in an unlawful manner, or without due
25 caution and circumspection. This subdivision shall not apply to
26 acts committed in the driving of a vehicle.

27 (c) Vehicular—

28 (1) Except as provided in Section 191.5, driving a vehicle in
29 the commission of an unlawful act, not amounting to felony, and
30 with gross negligence; or driving a vehicle in the commission of
31 a lawful act which might produce death, in an unlawful manner,
32 and with gross negligence.

33 (2) Except as provided in paragraph (3), driving a vehicle in
34 the commission of an unlawful act, not amounting to felony, but
35 without gross negligence; or driving a vehicle in the commission
36 of a lawful act which might produce death, in an unlawful
37 manner, but without gross negligence.

38 (3) Driving a vehicle in violation of Section 23140, 23152, or
39 23153 of the Vehicle Code and in the commission of an unlawful
40 act, not amounting to felony, but without gross negligence; or

1 driving a vehicle in violation of Section 23140, 23152, or 23153
2 of the Vehicle Code and in the commission of a lawful act which
3 might produce death, in an unlawful manner, but without gross
4 negligence.

5 (4) Driving a vehicle in connection with a violation of
6 paragraph (3) of subdivision (a) of Section 550, where the
7 vehicular collision or vehicular accident was knowingly caused
8 for financial gain and proximately resulted in the death of any
9 person. This provision shall not be construed to prevent
10 prosecution of a defendant for the crime of murder.

11 This section shall not be construed as making any homicide in
12 the driving of a vehicle punishable which is not a proximate
13 result of the commission of an unlawful act, not amounting to
14 felony, or of the commission of a lawful act which might produce
15 death, in an unlawful manner.

16 “Gross negligence,” as used in this section, shall not be
17 construed as prohibiting or precluding a charge of murder under
18 Section 188 upon facts exhibiting wantonness and a conscious
19 disregard for life to support a finding of implied malice, or upon
20 facts showing malice, consistent with the holding of the
21 California Supreme Court in *People v. Watson*, 30 Cal. 3d 290.